UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1997/18
10 July 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Item 8 of the provisional agenda

PROTECTION OF MINORITIES

Report of the Working Group on Minorities on its third session
(Geneva, 26 - 30 May 1997)

Chairman-Rapporteur: Mr. Asbjørn Eide

CONTENTS

		Paragraphs	Page
Introduction		1 - 3	3
I.	ORGANIZATION OF THE SESSION		
	A. Election of officers	4	3
	B. Attendance	5 - 11	3
	C. Documentation	12	5
	D. Organization of Work	13 - 16	5
II.	REVIEWING THE PROMOTION AND PRACTICAL REALIZATION OF THE DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES		
	A. Introductory remarks	17 - 21	6
	B. At the national level	22 - 65	7
	C. At the bilateral and regional levels	66 - 71	19
	D. At the global level	72 - 82	21

CONTENTS (continued)

		Paragraphs	Page
III.	EXAMINING POSSIBLE SOLUTIONS TO PROBLEMS INVOLVING MINORITIES INCLUDING THE PROMOTION OF MUTUAL UNDERSTANDING BETWEEN AND AMONG MINORITIES AND GOVERNMENTS	83 - 87	23
IV.	RECOMMENDING FURTHER MEASURES, AS APPROPRIATE, FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF PERSONS BELONGING TO NATIONAL, OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES	88 - 92	25
V.	FUTURE ROLE OF THE WORKING GROUP	93 - 95	26
VI.	OTHER MATTERS		
	A. The issue of citizenship	96 - 98	26
	B. Definition of minorities	99 - 104	27
VII.	CONCLUSIONS AND RECOMMENDATIONS	105 - 125	29
Annex.	List of documents before the working group		

Introduction

1. The creation of the Working Group on Minorities was recommended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 1994/4 of 19 August 1994, authorized by the Commission on Human Rights in its resolution 1995/24 of 3 March 1995, and endorsed by the Economic and Social Council in its resolution 1995/31 of 25 July 1995.

2. In that resolution the Council authorized the Sub-Commission to establish, initially for a three-year period, an inter-sessional working group consisting of five of its members to meet each year for five working days in order to promote the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities and in particular to:

(a) Review the promotion and practical realization of the Declaration;

(b) Examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;

(c) Recommend further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities;

3. In compliance with the above-mentioned resolutions, the Working Group held 10 public meetings from 26 to 30 May 1997.

I. ORGANIZATION OF THE SESSION

A. Election of officers

4. It will be recalled that at the 1st meeting of its first session, on 28 August 1995, the Working Group elected Mr. Asbjørn Eide (Norway) as Chairman-Rapporteur for the three-year period of the mandate of the Working Group.

B. Attendance

5. The session was attended by the following independent experts of the Sub-Commission as decided by the Sub-Commission at its forty-seventh session (decision 1995/119): Mr. Mohammed Sardar Ali Khan, Mr. José Bengoa, Mr. Stanislav Chernichenko, Mr. Asbjørn Eide and Mr. Ahmed Khalil. It was also attended by Mr. Mario Ibarra.

6. The following States Members of the United Nations were represented by observers: Algeria, Austria, Bangladesh, Bolivia, Brazil, Bulgaria, Canada, Chile, China, Costa Rica, Croatia, Cuba, Cyprus, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Germany, Hungary, India, Iraq, Japan, Jordan, Kenya, Lebanon, Madagascar, Malaysia, Mexico, Pakistan, Peru, Philippines, Poland, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Spain,

Sri Lanka, Sweden, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Viet Nam.

7. The following non-member States were represented by observers: Holy See, Switzerland.

8. The following United Nations bodies and specialized agencies, and intergovernmental organizations were represented at the session: Office of the United Nations High Commissioner for Refugees; International Labour Organization; United Nations Educational, Scientific and Cultural Organization; World Health Organization; European Commission; Organization of the Islamic Conference.

9. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers:

General consultative status:

World Muslim Congress

Special consultative status:

Baha'i International Community, Caritas Internationalis, Habitat International Coalition, International Catholic Migration Commission, Federal Union of European Nationalities, International Federation of Human Rights Leagues, Penal Reform International, International League for the Rights and Liberation of Peoples, International Organization for the Development of Freedom of Education, International Alert, International Service for Human Rights, Lutheran World Federation, World Jewish Congress.

Roster

International Human Rights Association of American Minorities, International Movement against all Forms of Discrimination and Racism, Minority Rights Group, World Federation of Democratic Youth.

10. The following other non-governmental organizations were represented by observers: Arab Association for Human Rights, Association des Assyro-Chaldéens de France, Assyrian Universal Alliance, Burma Peace Foundation, Canadian-Egyptian Organization for Human Rights, Cathedra Society, Cedime, Central Council of German Sinti and Roma, Chin National Council, Dalit Liberation Education Trust, Diversity Balkan Foundation, Espacio Afroamericano, European Roma Rights Center, Foundation on Inter-Ethnic Relations, Georgia Young Lawyers' Association, Human Rights Alliance (USA), Human Rights Association, Ibn Khaldoun Center for Development Studies, Indo-American Kashmir Forum, Indo-Canadian Kashmir Forum, Indo-European Kashmir Forum, Inter-Africa Group, International Centre for Ethnic Studies, International Centre for Intercultural Studies, International Centre for Law and Development, International Crisis Group, Islander Civil Movement, Kurdistan Committee, Legal Information Centre for Human Rights, Mauritius Council of Social Service, Minorities Council of India, Minority Rights Group - Slovakia, Mohajir Quami Movement, Mouvement culturel berbère,

Organization of Human Rights in Iraq, Research Centre on Ethnic and Language Relations of the Institute of Linguistics of the Russian Academy of Sciences, Sasakawa Peace Foundation, Sikh Human Rights Group, Summer Institute of Linguistics, Tamil United Liberation Front, Transylvanian Society for Hungarians all over the World, Turcoman Cooperation and Cultural Organization, Union national des associations universitaires de defense des droits de l'homme, Unrepresented Nations and Peoples Organization, World Federation of Hungarians.

11. The following scholars participated in the meetings of the Working Group: Ms. Sonja Bachmann, Ms. Monica Castelo, Mr. Edward Chaszar, Ms. Veena Das, Mr. Fernand de Varennes, Mr. Frank Horn, Ms. Christiane Gradis, Mr. Jagdish Gundara, Ms. Chandra Gunewardena, Ms. Hania Kamel, Mr. Yussuf Kly, Mr. Giorgio Malinverni, Ms. Maria Amor Martín Estebanez, Mr. Berhane Tewolde-Medhin, Mr. Joseph Yacoub, Ms. Alexandra Xanthaki.

C. Documentation

12. The documents before the Working Group are listed in the annex. All the working papers which were submitted are available in the Secretariat.

D. Organization of work

13. At its 1st meeting on 26 May 1997, the Working Group adopted the following agenda:

1. Adoption of the agenda.

2. Organization of work.

3. (a) Reviewing the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

   (b) Examining possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;

   (c) Recommending further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.

4. The future role of the Working Group.

5. Other matters.

14. As this is the report on the last session of the initial three-year mandate of the Working Group, the main elements of the information submitted at all three sessions and the deliberations held have been summarized in sections II to IV below. This outline of developments over the period of the initial mandate is provided to assist the Sub-Commission in its deliberations

on this question. The present report is to be read in conjunction with the reports on the first and second sessions of the Working Group contained in documents E/CN.4/Sub.2/1996/2 and E/CN.4/Sub.2/1996/28 respectively.

15. In his opening statement, the Officer-in-Charge, High Commissioner/Centre for Human Rights recalled that the international community had established a wide range of mandates and procedures to implement minority-related human rights standards. The establishment of the Working Group on Minorities was clear evidence of the commitment of the international community to address minority issues and to seek new avenues for the peaceful resolution of conflicts. He considered the Working Group as having dual functions - a process-generating function and a result-oriented function - both of which were crucial for the effective accomplishment of its mandate. He concluded by extending his cooperation in support of the activities of the Working Group and the implementation of its recommendations.

16. The Chairman-Rapporteur, in his statement, reaffirmed that the platform of work of the Working Group was the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the core message was that the existence and identity of all groups should be promoted and protected, thus contributing to the stability of the countries in which they lived. He recalled that during the current session, the last of the three-year mandate, it was crucial for the Working Group to adopt a comprehensive set of recommendations for further consideration and action on the basis of the information submitted by the members and observers.

II. REVIEWING THE PROMOTION AND PRACTICAL REALIZATION OF THE DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

A. Introductory remarks

17. At the three sessions of the Working Group, there was overall consensus that the Declaration must remain the focus of minority rights and that one of the roles of the Working Group was to review and promote the practical realization of the Declaration. To that end, it was important for the Working Group to receive concrete information on minority situations in different contexts, especially with reference to constitutional arrangements, national legislation and State practices, in order to expand, refine and give further meaning to the rights contained in the Declaration.

18. The Chairman-Rapporteur observed that it might be useful to examine the situation of minorities at three different levels: society, the community and the individual. The national society comprised the total population of a country, whereas communities consisted of different ethnic, national, religious or linguistic groups, some of which might be majoritarian in numerical terms, others in a minority position. Membership in the national society was generally defined by citizenship, which should be extended liberally to all who had made the State their permanent home, without distinction on racial, ethnic, religious or linguistic grounds. Membership in ethnic, linguistic or religious groups was a choice made by individuals themselves; the use or non-use of that option should not give rise to discrimination. In the common domain, i.e. in the national society, there should be equality, and no discrimination against any individual irrespective

of the community to which he or she belonged, if any at all. The purpose of the Declaration was to ensure that persons belonging to any of those communities should be entitled to maintain and develop their own culture while enjoying equality in the larger, national society. That required a process of integration to ensure equality for every individual, but not enforced assimilation which would deprive individuals of their freely chosen identity. It was therefore necessary to find an adequate balance between the integration of all groups within society, which made it possible for them to enjoy equality in the common domain, and allowing minorities to enjoy their separate identity to the fullest extent possible. That balancing act was one of the issues which the Working Group should address.

19. The observer for the Slovak Republic said that a balance needed to be struck between the interest of minority groups on the one hand and the interests of the State on the other. As some minorities were still struggling to preserve their identities, it was important to draw up minimum standards for minorities which could reflect overall consensus and thus be accepted by every country.

20. Mr. de Varennes pointed out that the cornerstone of all the principles contained in the Declaration was that all human beings, irrespective of their different ethnic, national, religious or linguistic characteristics, were equal. The fact that a State demonstrated a clear preference for the ethnic characteristics of the majority, in a way which undermined the principles contained in the Declaration, implied rejection of the equality of persons belonging to minorities. It was necessary to seek an appropriate balance between the preferences of the State in terms of language, culture and religion and those of persons belonging to minorities. The standards contained in the Declaration offered guidance as to the various ways in which such a balance could be achieved.

21. The International Centre for Ethnic Studies said that the Declaration had as yet not been afforded the same degree of recognition and focus as some other international instruments. It was therefore an important task of the Working Group to ensure that the Declaration was promoted and steps were taken for its effective realization, including through the dissemination of the Declaration and the elaboration of its contents and principles in an explanatory manual, so that the core values it contained would be more widely acknowledged as a means of enriching the cultural and ethnic diversity of States.

B. At the national level

1. Constitutional and main legal provisions protecting the existence and identity of minorities (art. 1.1 of the Declaration)

22. At the three sessions of the Working Group, information was submitted by government observers, NGOs and scholars on constitutional and legal provisions protecting the existence and identity of minorities. At the first two sessions information was provided on minorities on the territory of various States and on the national provisions safeguarding not only the identity of the minorities but also the maintainance and development of their characteristics, such as their language, culture and religion. The

discussions at the third session focused more on the ways in which constitutional and legal provisions are implemented in practice at the regional, national and local levels (see paras. 25-42 below).

23. The observer for the Russian Federation said that the rights of persons belonging to minorities were protected in his country by the Constitution of the Russian Federation and those of the Autonomous Republics, as well as by a series of laws. The observer for China mentioned that minorities in China were guaranteed equality before the law and the rights to speak their own language, to profess and practise their own religion and to enjoy their own culture, and benefited from financial support from the Government. The observer for Iraq stated that all minorities on the territory of Iraq were granted fundamental rights and freedoms in accordance with national legislation, including the right to enjoy their own culture.

24. Observers representing minority groups spoke of several situations affecting minorities, in which, in their opinion, the existence and identity of the minority concerned were not adequately protected. This was claimed to be the case for African-Americans in the United States of America who were locked into the will of the dominating groups and subjected to a policy of forced assimilation (International Human Rights Association of American Minorities); the Turcoman minority in Iraq who were forced to alter their ethnic origin in the civil registers from Turcoman to Arab (Turcoman Cooperation and Cultural Organization); and the Kurds in Turkey, many of whom had been displaced and subjected to torture, extrajudicial killings and disappearances (Kurdistan Committee).

2. The rights of persons belonging to minorities, individually or in community with other members of their group, to enjoy their own culture, to profess and practise their own religion and to use their own language, in private and in public (art. 2.1 and art. 3)

25. Information submitted under this topic, has, over the three-year period of the mandate of the Working Group, increased both in quantity and in quality. The members of the Working Group, as well as government observers, representatives of agencies and organizations, NGOs and scholars have identified some important issues of concern to minorities in the fields of culture, religion and language and have provided information on positive measures and good practices, as well as on the causes of problems affecting minorities. At the third session, participants demonstrated a greater willingness to enter into dialogue about some of these issues. However, the discussion of the right of persons belonging to minorities to enjoy their own culture left something to be desired. The reticence to discuss this issue no doubt reflects the difficulties encountered in international forums in identifying the core elements and contents of the right of persons to enjoy their own culture.

(a) The right of persons belonging to minorities to enjoy their own culture

26. The Working Group had before it a working paper prepared by Ms. Schulte-Tenckhoff (E/CN.4/Sub.2/AC.5/1997/WP.7) providing an overview of

concepts relating to culture, such as ethnicity and identity. The term "culture" referred inter alia to a given set of values, norms, ideas and modes of behaviour that might be associated with one or several social or national groups.

27. Ms. Das emphasized that education, linguistic rights, the rights to folklore and knowledge systems were core elements of culture but that there were other considerations to be taken into account, such as the right to life, bodily integrity and health, which sometimes conflicted with elements of minority culture. Furthermore, matters relating to personal laws, such as marriage and inheritance, might conflict with issues of national sovereignty and national interest. She affirmed that issues such as the right to livelihood and the need to preserve the environment must be balanced with community rights and individual interests.

28. The observer for the International Centre for Ethnic Studies explained that, in South Asia, the cultural rights of minorities had given rise to several problems where such rights had been interpreted to relate primarily to religion, religious minorities and religious institutions. She also said that, given the tendency to link key aspects of culture with the female members of communities, it was of prime importance to focus on women belonging to minorities in order to ensure full respect of minority rights.

(b) The right of persons belonging to minorities to profess and practise their own religion

29. The observer for the Sikh Human Rights Group said that religious sentiment was an important aspect of identity. The problems of religious minorities were rooted in the wider context of religious intolerance. It was not the scriptures which advocated such intolerance, but individuals who had hijacked religious sentiments for altogether different purposes. He added that there was no evidence that the separation of Church and State led to a more peaceful coexistence of religious minorities within society. It was important to ensure that no religion was discriminated against and no individual deprived of choice of belief or denied access to equal opportunities merely because of belief. In his view, States which adopted secular models might run the risk of marginalizing religious minorities, unless those minorities were given appropriate scope for the accommodation of their religious values within the larger society. That might lead religious minorities to lose their identity, and to come into conflict with the State and the projection and promotion of its values - a situation which might lead to increasing tensions and conflict.

30. Mr. Chernichenko mentioned that it was important to take into account those minorities who were atheist. The Chairman-Rapporteur pointed out that article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights referred to freedom of belief, which made it clear that both those who held religious views and those who held other beliefs were covered by the term "religious minorities" as contained in the Declaration and were therefore also to be considered within the mandate of the Working Group.

31. Mr. Roman Kroke presented his working paper on the treatment of religious minorities in educational systems throughout the world (E/CN.4/Sub.2/AC.5/1997/CRP.1). He referred to article 2.1 of the Declaration, which could be read to imply that no State had the right to compel children belonging to minorities to participate in religious activities which were not their own or to receive religious instruction which conflicted with the religion or conviction of their parents. He said that religious instruction in public schools should be available on a voluntary basis. If States provided financial support for religious instruction, they should, in accordance with the principle of equality, also do so for religious minorities. He argued that the right of religious minorities to establish denominational schools was a corollary of the right to practise and profess their own religion, taking into account the minimum standards set by the State. In addition, States should allow religious minorities to train teachers for religious education without interference from the State other than that required to ensure compliance with international standards relating to education. He concluded by drawing attention to the fact that the Declaration also provided for minorities to participate in religious life and thus also to establish and maintain religious institutions.

32. The observer for Switzerland said that Switzerland, by prescribing in its Constitution that the exercise of civil and political rights could not be restricted by prescriptions or conditions of an ecclesiastical or religious nature, ensured that the principle of religious neutrality was safeguarded by the State. Public schools must be open to children of all confessions, without any form of discrimination as to their freedom to profess and practise their own religion. That meant that protection was also afforded to confessional minorities and to atheists, agnostics or those who were indifferent.

33. Observers presented examples of minorities whose right to practise and profess their own religion was, in their opinion, restricted. Reference was made to: the Coptic Christian minority in Egypt (Canadian-Egyptian Organization for Human Rights); Christian converts among the Dalits (Scheduled Castes), against whom discrimination was widespread and had been exacerbated by societal violence based on deep-seated prejudices and religious belief (Dalit Liberation Education Trust); the Sikh minority in India, whose right, it was asserted, to freely practise and profess their own religion was being undermined since they had not been recognized as possessing a separate identity and interference in their religious institutions was commonplace (Sikh Human Rights Group); the Hindu minority in the State of Jammu and Kashmir, where very little tolerance was shown for the minority Hindu religion and its practices, leading to the desecration of religious places of worship and threats to life (Indo-Canadian Kashmir Forum); the Muslims in Myanmar, known as the Rohingyas, who, among others, were being persecuted, as a religious minority (Burma Peace Foundation); the Christians in Myanmar, including members of the Chin and Karenni minorities, who suffered persecution, priests and pastors being specifically targeted (Chin National Council); and the Assyro-Chaldean Christians in Turkey who could not freely profess and practise their own religion, having to be subject to the dominant State religion (Association des Assyro-Chaldéens de France). Reference was

also made to the situation in Romania, where the Hungarian churches had been expropriated by the previous authorities (Transsylvanian Society for Hungarians all over the World).

C. The right of persons belonging to minorities to use their own language in private and in public

34. Mr. Yacoub said that the preservation of the language of persons belonging to minorities was one of the most fundamental elements of their identity. Language was a vehicle which bound members of a community and accounted for the social cohesion of a minority group.

35. Mr. de Varennes introduced his working paper entitled "To speak or not to speak" (E/CN.4/Sub.2/AC.5/1997/WP.6) by illustrating how in practical terms the right of minorities to speak their own language in private and in public can be realized, in accordance with the Declaration. In his paper, he referred in particular to article 1, concerning the protection of the minority language and the encouragement of conditions for its promotion, and article 2, which implied that the State should not interfere in a way which would deny the free private use of a minority language. Mr. de Varennes stated that, arguably, one of the most effective ways of protecting a linguistic minority's identity and of encouraging conditions for minorities to be able to speak their own language in public, as provided for at article 2, was to have public officials use a minority language where it was reasonable to do so. When authorities at the national, regional or local levels faced a sufficiently high number of individuals whose primary language was a minority language, States had come to accept that they must provide a level of service appropriate to the relative number of individuals involved.

36. Mr. Gundara added that linguistic diversity in schools was of paramount importance in preventing languages from dying out. He said that it was crucial to build on the knowledge of their mother tongue that children belonging to minorities brought into school at a young age, so that overall knowledge was strengthened and developed.

37. Mr. Bengoa mentioned that the indigenous groups in Latin America often shared the same characteristics as minorities. In the 1960s and 1970s measures for the promotion of bilingual education had been adopted in Latin America in the framework of structural reforms. Since the 1980s the cultural identity of indigenous peoples had increasingly been promoted through the recognition of their languages. Emphasis on bilingual education had, however, had the effect of reducing the use of the indigenous or minority language to a secondary role, thereby reinforcing the dominant role of the majority language. Minority languages had thus been marginalized and threatened with extinction. Language was an important medium of expression and the cornerstone of the culture and identity of a minority. It was an instrument of power of the dominant group. If conditions were conducive to the preservation of minority languages, they would have a chance of survival. If, on the other hand, conditions were such that the majority language continued to dominate, minority languages would run the risk of disappearing.

38. Mr. Chernichenko said that no rules or recommendations could change the situation of languages that were in the process of disappearing. It often

happened that the language of the minority disappeared while the minority itself survived. Protection should therefore be afforded to minorities generally, not because they belonged to linguistic minorities. Some minorities preferred to speak the national language, that was to say the language of the majority. A language might disappear for economic reasons, for example, or simply because a language might fail to develop by not keeping abreast of scientific and technological terms. The disappearance of a minority language should not be encouraged, however neither should the survival of the language be ensured artificially.

39. The observer for the Russian Academy of Sciences considered that the languages of minorities often disappeared owing to artificial processes such as assimilative policies of the State. She emphasized that their language played a great role in the self-identification of a minority. The Chairman-Rapporteur added that the survival of a language very much depended upon the environment in which persons belonging to minorities spoke their language. If those conditions were favourable, they would be proud to speak their language. If, on the other hand, the environment was negative, they would be more likely to show preference for speaking the national, majority language.

40. The observer for Switzerland underlined that the preservation and promotion of the linguistic and cultural diversity had made for national cohesion in Switzerland. He explained that Romanche, a language spoken by 0.6 per cent of the population had become an official language in respect of official contacts between Romanche-speaking citizens and the Confederation and could be used by anybody in public, as well as in private, in any region of Switzerland. Mr. Malinverni added that in Switzerland, the freedom to use the three main languages, French, German and Italian, had been recognized by the Federal Tribunal in 1965 as a constitutional right. In private, the use of a language was not subject to any restriction. In relations with State authorities, any person could speak his or her own language and receive information from the State and instruction in that language, subject to certain restrictions on the use of their own language by groups which were not members of the majority linguistic group in a given canton.

41. The observer for Ukraine mentioned that the Ukrainian language had remained alive despite the fact that Russian had been obligatory in schools and had been the language of instruction in higher educational establishments in Ukraine. The observer for Finland said that the Education and Development Unit for the Romany Population had been operating since 1992 within the Finnish National Board of Education, with the task of developing inter alia the teaching of the Romany language. Children belonging to the Romany minority in Finland had been able to learn their mother tongue in a number of schools where a group of five or more children so requested. The observer for Romania explained that, in Romania, persons belonging to minorities could use their mother tongue in public; in localities where they formed more than 20 per cent of the population, minorities could address themselves to public offices and receive answers both orally and in writing in their own language.

42. Reference was made to minorities who were restricted in the use of their own language in private and in public: the Kurdish minority in Turkey, Iraq and Syria, who were not allowed to use their own language to communicate among

themselves (Human Rights Alliance); the Berber minority in Algeria, where traditional Berber names of persons, towns and regions were Arabized and the use of the Berber language, Tamazight, was prohibited (Mouvement culturel berbère); and the Hungarian minority in Slovakia, where, in accordance with the Law on the State Language, in force since January 1996, all official documents must be written in Slovak as the only official language of the State, and the use of minority languages in local government was limited (World Federation of Hungarians).

3. Effective participation by members of minorities, individually or in community with others, including in cultural, religious, social, economic and public life and in decisions at the national and regional levels concerning the minority to which they belong or the regions in which they live (art. 2.3)

43. The subject of effective participation of members of minorities in all aspects of society was discussed at some length during the session. Government observers, NGOs and scholars provided useful information on the modalities of such participation, which had not been specified in the Declaration, including information on the representation of minorities in national legislative bodies but also on their participation in decision-making at various levels of State administration, and on the establishment and functioning of minority associations and organizations. Proposals were made for the effective participation of minorities, such as the decentralization of decision-making powers to local councils or municipalities and the establishment of advisory councils or round tables to enable minority views and interests to be heard, all of which required dialogue and partnership between minorities and Governments.

44. Mr. Horn said that he conceived participation as meaning the activities of persons belonging to minorities, individually or in community with others, taking part in the preparation, elaboration and implementation of decisions that affected the society in which they lived and the community to which they belonged. He mentioned traditional representative participation, whereby members of minorities were elected to Parliament and regional and local bodies. Other modes of participation included more direct participation as through political parties established along ethnic lines. However, as decision-making was primarily based on majority rule, minorities would only have a slight chance of having their needs met. An alternative and more direct mode of participation was that of consultative procedures, whereby minorities would be heard during the crucial phase of decision-making on matters that were of concern to them. There also existed less formal, ad hoc bodies which promoted minority participation, such as advisory bodies or councils, which might be more conducive to promoting the interests of minorities and might draw the attention of the Government to various issues of concern to them. The effective participation of minorities might be enhanced by the decentralization of decision-making to local self-government bodies and municipalities. Mr. Horn concluded by saying that a legal framework was necessary but not sufficient to promote minority participation.

45. The observer for Bangladesh drew attention to the fact that, in countries where minorities were at a distinct disadvantage, it was important to ensure the effective participation of minorities at all levels of society,

in addition to their representation. In some countries there existed a segregated electoral system where seats were assigned to certain groups. However, such a system carried with it the danger that the separation between the collective and individual groups would be further exacerbated. The challenge was how to posit the right of minorities to a distinct identity vis-à-vis the right of a people to evolve as a component of the mainstream. The observer for Pakistan added that in cases such as that of Pakistan, where the separate electoral system had been removed, minorities made up such a small percentage of the community that it was difficult to ensure their appropriate representation.

46. The observer for Romania said that effective participation of minority representatives at the national and regional levels was an increasing feature in Romania's political and social life. Thirteen associations belonging to national minorities each had a member representing them in the Chamber of Deputies, while the Democratic Alliance of Hungarians held 8 per cent of the seats in Parliament and had two members in the Cabinet. Furthermore, the Hungarian alliance has 8 State secretaries (out of 34), 2 prefects (out of 42) and 5 deputy-prefects. At the local level, the Hungarians had more than 100 mayors, 3 of them running major cities. In Mauritius, the observer for the Mauritius Social Council pointed out, minorities were effectively integrated into all levels of society. Not only were their traditions, customs and belief systems reflected in the culture and tradition of Mauritius, they were also represented in Parliament through a best-loser system. That meant that those representatives of minorities who did not receive sufficient votes to obtain seats in Parliament through the normal elective system could be assured of at least 8 seats out of a total of 70.

47. In an overview of the activities of the Venice Commission for Democracy through Law, Mr. Malinverni mentioned that, in the case of Croatia, the membership of the constitutional courts did not reflect the ethnic composition of the country. It had therefore been suggested by the Commission that for cases involving minorities the courts should be supplemented by foreign judges. Although this proposal was rejected, Croatia had agreed to supplement the courts with international advisers entrusted with drafting an individual opinion.

48. Observers presented examples of cases where, in their opinion, persons belonging to minorities were unable to participate effectively in cultural, religious, social, economic and public life and where their participation in decision-making at the national and regional levels was limited. Examples mentioned were, inter alia: the Coptic minority in Egypt, where it was alleged that it had become increasingly difficult for the Copts to have political participation and, in particular, to be represented in Parliament (Canadian-Egyptian Organization for Human Rights); the Russian indigenous minority communities living in the north of the Russian Federation, who were not represented or were under-represented in local administrations (Russian Academy of Sciences); the Russian minority in Estonia, where the existing citizenship legislation failed to guarantee their effective participation at all levels of society (Legal Information Centre for Human Rights); the minority of Persian origin in Bahrain, who were unable to participate in decisions concerning the minority they belonged to and were unable to maintain their own associations (Bahrain Human Rights Organization); the Mohajirs in

Pakistan, who asserted that they were excluded from effective participation in Sindh Province, despite having won the General Election with a landslide victory, and were refused the right to choose both the Chief Minister and the Governor of Sindh Province (Mohajir Quami Movement).

4. The value and content of education aimed at protecting the cultural identity of persons belonging to minorites, including the right to learn and have instruction in their mother tongue (art. 4.3)

49. This topic has, over the three sessions of the Working Group, been the subject of increasing focus. The right of persons belonging to minorities to learn and have instruction in their mother tongue is one of the cornerstones of their existence and identity, as well as that of their culture and traditions. This provision is important as languages condition and shape the lives of minorities through a whole range of ideas, concepts, images and values. Examples were provided of positive measures which had been adopted by States to safeguard and promote the right of minorities to learn and have instruction in their mother tongue. In addition, information was submitted on situations in which minorities are restricted from learning or having instruction in their mother tongue and on the difficulties encountered in implementing this right, especially in areas of the world where the level of illiteracy is such that the right to education and to attain a certain level of literacy is granted greater attention.

50. In his working paper on the right to speak or not to speak (E/CN.4/Sub.2/AC.5/1997/WP.6), Mr. de Varennes expressed the view that public education was undoubtedly one of the most powerful measures to protect the existence and the linguistic identity of minorities, as well as to encourage conditions for the promotion of that identity, as required by article 1 of the Declaration. Article 4.3 of the Declaration suggested that a State should, but did not have an absolute obligation to, provide such educational opportunities. Nevertheless, it was possible to read into articles 1 and 4.4 of the Declaration a State obligation to adopt, as far as possible, measures such as using a minority language as the medium of public instruction to a degree appropriate under the circumstances, and support to private or public schools where instruction in or of the minority language was provided. In addition, minorities had traditionally been recognized the right to establish and maintain their own private educational activities, using their own language as the medium of instruction if they so desired.

51. The representative of the Foundation on Inter-Ethnic Relations presented his working paper entitled "Education rights of minorities: the Hague Recommendations" (E/CN.4/Sub.2/AC.5/1997/WP.3), in which he provided an overview of issues relating to language education policy as applied in States of Central and Eastern Europe, in particular. The major thrusts of the Hague Recommendations included: the encouragement of persons belonging to minorities to learn the official language of the State and to be able to function as citizens of the State, while States were obliged to ensure the equality of everyone within the State; the principle of non-discrimination based on language; the participation of minorities in the educational system; the provision of alternative forms of education for children belonging to minorities; the need for minorities and majority populations to learn about

each other; and the need for a language mix in the programme at primary and secondary school levels, which would open the way towards a multilingual society.

52. Mr. Ali Khan drew attention to the fact that for minorities to have their own educational institutions at which they were taught in their mother tongue, their own language would have to have reached a certain level of development. Some minority languages had developed to such a high degree that their use as the medium of instruction was ensured. However, where minority languages were weaker, that might not be the case. It might thus prove necessary to clarify the principles of the Declaration pertaining to the right of minorities to have instruction in their mother tongue. In that context, the Chairman-Rapporteur mentioned that it was also important to consider article 4.4 of the Declaration, as well as other relevant provisions of international instruments, such as article 29 of the Convention on the Rights of the Child.

53. The observer for Austria informed the Working Group that minorities in Austria had the right to learn their mother tongue as well as to receive instruction in their mother tongue. For example, the Minority Schools Acts for the provinces of Carinthia and Burgenland governed schooling for the Slovene, Croat and Hungarian ethnic groups, and provided for the individual's right to be educated in his or her own language or to learn it. Since the individual identification of a person belonging to an ethnic group was explicitly prohibited, such individual minority language rights might be equally asserted by members of ethnic groups and by members of the German-speaking majority, provided that they met the linguistic preconditions for such instruction.

54. The observer for Cyprus said that the various minorities in Cyprus could learn their mother tongue and have instruction in their mother tongue. The Government of Cyprus provided financial assistance to enable them to maintain their own schools. The observer for the Russian Federation mentioned that there were about 40 schools in the Russian Federation which provided instruction in a minority language, including Hebrew, Lithuanian, Georgian and Tatar. The observer for the Mauritius Council of Social Service said that in Mauritius the situation demanded that the languages of heritage be taught: Hindu, Tamil, Telugu, Marathi, Sanskrit, Mandarin and Arabic. In Sri Lanka, according to Ms. Gunewardena, both the national languages, Sinhala, the language of the majority, and Tamil, that of the minority, had been used as a medium of instruction at primary schools. Both Sinhala and Tamil would be taught compulsorily to all children from grades 1 to 5 as of 1998.

55. The observer for Romania said that the Government of Romania was in the process of amending the Education Law to provide for the education in their mother tongue of national minorities at all levels. In addition, entrance and graduation examinations could be passed in the languages candidates had been trained in, and members of the majority were encouraged to learn minority languages with a view to encouraging intercultural learning. On the Island of San Andres, Colombia, the Government has recently adopted positive steps in favour of the Afro-Colombian English-speaking minority, the observer for the Islander Civil Movement informed the Working Group. The Government of Colombia was now addressing the high rate of illiteracy among the

Afro-Colombian minority and taking concrete measures to preserve their language and thereby also their cultural identity. To that end, it was negotiating the elaboration of a bilingual Spanish and English education programme for all primary and secondary schools.

56. As for restrictions on the right of persons belonging to minorities to learn and have instruction in their mother tongue, reference was made to: the Hungarian minority in Slovakia where, it was asserted, 26.2 per cent of Hungarian children did not have the possibility to receive instruction in their mother tongue or to be taught about Hungarian culture and history (Federal Union of European Nationalities and Cathedra Society); the Chin, Shan, Wa, Lahu and Akha minorities in Myanmar, where the Government had prohibited the use of their languages and literature in schools, and where education in the local language in the Chin and Shan States was forbidden (Burma Peace Foundation and Chin National Council); the Gypsy minority in Europe, who had little opportunity to be taught in their mother tongue (Diversity Balkan Foundation); the Kurdish minority in Turkey, Syria and Iran, where teaching in the Kurdish language was banned and very few members of the Kurdish minority were trained as teachers at any level of the educational system (Human Rights Alliance); the Baluchi, Arab, Turcoman and Assyro-Chaldean minorities in the Middle East, who had no right to be taught in their mother tongue (Human Rights Alliance); the Berber minority in Algeria, who did not have the possibility to learn or be taught their mother tongue, which meant that the opportunities for those children were far more restricted than those for children whose mother tongue was Arabic (Mouvement culturel berbère); the Bedouin minority of the Sinai, Egypt, where the medium of instruction was Egyptian Arabic rather than Bedouin Arabic (Ms. Kamel); the Farsi-speaking minority in Bahrain, who did not have the right to learn their mother tongue at public schools (Bahrain Human Rights Organization); and the Roma minority in Central and Eastern Europe, who had little opportunity to learn and be taught the Romany language and were often excluded from schools on the basis of race or ethnicity (European Roma Rights Centre).

5. The value and content of intercultural education in providing persons belonging to minorities with adequate opportunities to gain knowledge of the society as a whole

57. In the light of the extensive discussions on the issue of education and minorities at its first and second sessions, the Working Group had recommended the organization of a seminar on multicultural and intercultural education prior to its third session. This recommendation was subsequently endorsed by the Sub-Commission in its resolution 1996/17. The seminar, organized jointly by the United Nations High Commissioner/Centre for Human Rights and the International Service for Human Rights, was held on 23 and 24 May 1997 in Geneva. The participants included experts from Australia, Bosnia and Herzegovina, Egypt, India, Mauritius, Norway, the Russian Federation, Spain and Sri Lanka, NGOs with particular expertise in the field of multicultural and intercultural education, representatives of minority groups and four out of the five members of the Working Group.

58. The observer for the International Service for Human Rights recalled that discussions at the seminar had focused on various national situations which highlighted the importance of multicultural and intercultural education

for the preservation and promotion of the identity of diverse groups while at the same time enabling those groups to be integrated in society as a whole. Participants in the seminar had concluded that multicultural education involved educational policies and practices which met the separate educational needs of groups in society which belonged to different cultural traditions, while intercultural education involved educational policies and practices by which the members of different cultures, whether in a majority or minority position, learned to interact constructively with each other. The participants at the seminar adopted a series of recommendations which are contained in the report of the seminar (E/CN.4/Sub.2/AC.5/1997/WP.5).

59. Mr. Khalil said that intercultural education was essential to foster the integration of all groups in society and to inculcate the values of society as a whole. He reminded the other members of the Working Group and the observers that 189 States had ratified the Convention on the Rights of the Child, and that it was important to draw States parties' attention to their responsibility with respect to article 29 thereof, relating to education.

60. In Sri Lanka, according to Ms. Gunewardena, the National Education Commission had accepted the integration of the Sinhala and Tamil languages as an objective of education in that country. A revision of the school curriculum was currently being undertaken with a view to including components of intercultural education. The observer for the Russian Academy of Sciences mentioned that in areas with a high percentage of indigenous minority population, history and culture of the different groups within society was now being taught.

61. With reference to the situation in Bosnia and Herzegovina, the observer for the International Crisis Group said that education was the responsibility of two entities, namely, the predominantly Serb Republica Seprska, and the Federation of Bosniaks and Croats. The three separate curricula in use, two of which were imported from the Republic of Croatia and the Federal Republic of Yugoslavia, affected the integrity of Bosnia and Herzegovina as a State and as a society. She suggested that Bosnia and Herzegovina should elaborate a core curriculum to ensure that all three language variants could be used and to allow for supplementary classes for all three ethnic groups in arts subjects, religion and the humanities. The teaching of history was of particular importance. At present, three interpretations of history were being taught. There should be one interpretation for all three ethnic groups.

62. Observers referred to situations where, in their opinion, minorities were not provided with adequate opportunities to gain knowledge of their own culture and traditions, and where the majorities did not receive the necessary knowledge of the values and traditions of the minorities. Cases referred to included: the Hungarian minority in Slovakia, where in schools of the national minorities, history and geography was taught by ethnic Slovak teachers, which allegedly led to a distortion of historical truth and thus negatively affected future generations of Hungarians learning about their own past (Federal Union of European Nationalities); the Arab minority in Israel, where educational guidelines and policies were designed to entrench the values of the Jewish culture, and the characteristics of the identity of the Palestinian minority were suppressed. In addition, Arab minority students received little instruction in Palestinian history, geography, literature,

culture or traditions in their educational institutions (Arab Association for Human Rights); the Bedouin minority in Israel, where the overall aims of the educational system required Arabs to learn about Jewish values and culture, but did not require Jews to learn about Arab values and culture, including history (Ms. Kamel); the Coptic minority in Egypt where the school curriculum failed to reflect the history and culture of the Coptic Christian minority, including the centuries preceding the arrival of Islam (Ibn Khaldoun Centre for Development Studies); and the Korean, Ainu and Okinawan minorities in Japan, where the history and culture of the minorities were not taught in schools (International Movement against All Forms of Discrimination and Racism).

6. National recourse and conciliation machineries, including national commissions or councils, community mediation and other forms of voluntary dispute avoidance or settlement

63. The discussion at the three sessions of the Working Group focused on the need to establish forums for dialogue between minorities and Governments as a means to bring about mutually acceptable solutions to problems and conflict situations. Increasingly, specific examples have been provided of national recourse and conciliation mechanisms, how such mechanisms have been established and how they function.

64. The observer for Hungary informed the Working Group that in 1993 the Parliament had created the post of Ombudsman on national and ethnic minority rights. The Ombudsman might be contacted by any Hungarian citizen belonging to a national or ethnic minority who considered that his or her rights had not been duly respected by the authorities or had even been violated and an effective remedy had not been provided. A petition might be submitted in two cases - when all other available means of legal remedy had been exhausted and when the case could not be considered under the existing legislation by other competent authorities. The Ombudsman was granted the power to investigate acts of any State authority and to request information or explanations from State organs and local self-governments. The Ombudsman might proceed with hearings or call upon the concerned organs to carry out further investigation into reported cases involving national and ethnic minorities.

65. In the United States the observer for the International Human Rights Association of American Minorities explained a "new initiative" had been launched to serve as a model for information-sharing, problem-solving and subsequent mobilization of diverse segments of the African-American minority community throughout the country. Its major purpose was to facilitate the establishment of a minority consultative assembly or council.

C. At the bilateral and regional levels

1. The existence, use and value of bilateral treaties and similar agreements

66. At the second session of the Working Group, a general overview of the value and limitations of bilateral treaties and similar agreements was provided. It had been explained that the advantage of such treaties was that they could strengthen the rights of persons belonging to minorities and focus

on problems involving them at the local level. The disadvantages were that they could lower existing universal human rights standards and were often negotiated in the absence of the very minority they were designed to protect. At the third session, more information was provided on the provisions of bilateral treaties and their implementing mechanisms.

67. The observer for the Transsylvanian Society of Hungarians all over the World mentioned that bilateral treaties could promote the rights of persons belonging to minorities by including general provisions of international and regional instruments tailored to the specific needs of those communities. However, special attention should be paid to avoiding lowering existing standards in the field of minority protection.

68. The observer for the World Federation of Hungarians, said that the Hungarian-Slovak Basic Treaty on Good-Neighbourliness and Cooperation guaranteed the right of Hungarians to use their mother tongue orally and in writing in dealings with the public authorities and to indicate the names of their municipalities and streets in Hungarian. The observer for Romania stated that the Government was consolidating a relationship with its neighbours; it had ratified the Hungarian-Romanian Basic Treaty, while the Romanian-Ukrainian Treaty would be signed soon. Both documents contained provisions granting rights of the relevant minorities living in Romania, Hungary and Ukraine. The observer for the Russian Federation mentioned that a bilateral treaty would be signed by the relevant ministries of the Russian Federation and Ukraine. The observer for Hungary referred to two separate treaties with Slovenia and Croatia, and the minority rights which were guaranteed by their provisions. A common element of the treaties was the establishment of joint committees to oversee their implementation. Those committees, composed of representatives of central, regional and local government and representatives of minorities, had been entrusted with the following tasks: to inform the relevant partners of the implementation of the treaty; to address concrete situations involving minorities; and, to prepare recommendations for the relevant governments for the further implementation of the provisions of the treaty.

2. The existence and use of and experience with regional mechanisms for the protection of persons belonging to minorities

69. Most of the information submitted to the Working Group on this subject concerned the regime for minority protection in Europe. This includes not only instruments such as the Council of Europe Framework Convention for the Protection of National Minorities, but also confidence-building measures and the role of the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe.

70. Ms. Estebanez said that the European Charter for Regional or Minority Languages of the Council of Europe had established undertakings on the part of States aimed at the protection of the languages of historical or regional minorities in Europe, through comprehensive treatment of linguistic minority issues in the areas of: education; the use of minority languages in dealings with the administrative authorities and public services and in administrative proceedings; cultural activities; economic and social life; and trans-border contacts. She also referred to the European Commission on and Court of Human

Rights, which had indicated that the fulfilment of the rights provided for in the European Convention on Human Rights entail an obligation for the State to take positive measures to allow persons belonging to a particular group to exercise their rights.

71. Mr. Bengoa pointed out that regional standards and mechanisms concerning minority protection, as well as the recommendations made by regional bodies, were highly relevant, especially when they related to early warning and the peaceful settlement of problems involving minorities. He suggested that it would therefore be useful to study the possibility of establishing mechanisms which could respond to the specific needs of minorities in each region. Regional or subregional bodies which were more aware of the particular problems at regional and national levels should be established, and could play an important role in that regard, in Africa, Asia and Latin America.

D. At the global level

1. The role of the treaty bodies

72. At the second session, in particular, in-depth information was provided on the functioning and mandates of the various treaty bodies, in particular the Committee on Economic, Social and Cultural Rights, the Human Rights Committee, the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination. Particular reference was made to the minority-related rights each of the committees were addressing when considering State party reports and drafting concluding observations and recommendations.

73. The observer for the Arab Association for Human Rights provided a pertinent example of the way in which the attention of the Committee on Economic, Social and Cultural Rights had been drawn to violations of the right to housing of the Arab minority in Israel. Despite the fact that Israel had not submitted its report on time, the Committee had taken action by requesting the Government of Israel for comments on the report submitted to it by a coalition of Arab NGOs. The Chairman-Rapporteur added that NGOs could provide alternative reports to the official reports submitted to the treaty bodies by Governments, or they could be involved at national level at the time the reports were being drafted. In addition, the Committee on Economic, Social and Cultural Rights devoted the first day of each of its sessions to NGOs, in order to provide them with an opportunity to submit relevant information.

2. The role of United Nations bodies and specialized agencies

74. The Chairman-Rapporteur said that inter-agency cooperation on minorities had been initiated and developed by the United Nations within the framework of the activities of the Working Group in order better to coordinate the responses of the agencies to issues involving minorities. Three consultations had been held, in August 1996 and in January and May 1997, bringing together representatives of some 10 agencies and intergovernmental organizations concerned with the promotion and protection of the rights of persons belonging to minorities. The consultations had provided an opportunity for agencies to present their activities and to discuss possible cooperation on, for example: joint input to the Commission on Human Rights, the Sub-Commission and the

Working Group, the provision of relevant information to be included on a website page, joint minority-related technical cooperation projects, submission of information on system-wide complaints procedures, input into the treaty bodies, dissemination of the recommendations and resolutions of supervisory bodies, and the provision of training on minority-related human rights instruments at regional and national levels. An informal paper prepared by the Secretariat describing the various relevant activities of the agencies was made available to participants.

75. The observer for the International Labour Organization (ILO) drew the attention of the members of the Working Group and the observers to a handbook on employment of ethnic minorities in Eastern and Central Europe which ILO had just published. She also mentioned the Annual Report of the ILO Committee of Experts on the Application of Conventions and Recommendations, which provided an overview of cases of discrimination on the basis of national extraction under ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation. Reference was also made to the launching of an action programme on skills and entrepreneurship training for countries emerging from armed conflict, which included a conceptual and comprehensive policy framework on employment promotion and skills training in war affected contexts where the role of minorities was vital. A forthcoming ILO publication entitled Affirmative Action in Employment of Ethnic Minorities and Persons with Disabilities would include success stories where labour market initiatives had helped both the training and access to employment of persons belonging to ethnic minorities and improvement in their terms and conditions of employment.

76. The observer for the World Health Organization (WHO) mentioned the comprehensive programme of action of WHO for the International Decade of the World's Indigenous People. It focused, inter alia, on substance abuse, the particular health needs of indigenous peoples in the Americas, the provision of culturally-sensitive health care and services in multicultural communities, and the development of guidelines for traditional healers.

77. The representative of UNESCO drew attention to the Convention against Discrimination in Education of 1960 and mentioned that UNESCO has devoted much attention to mother tongue education. Within the framework of the Convention, a number of consultations had been held to discuss ways in which legal provisions discouraging discrimination in the field of education could be implemented. She also referred to the International Commission for Education for All by the Twenty-first Century and the World Commission on Culture and Development, whose work focused on human rights, democracy, the promotion of minority rights, conflict resolution and the promotion of equity.

78. Ms. Gunewardena expressed her thanks to UNICEF and UNESCO in particular for devising programmes of intercultural awareness, including education for conflict resolution at the primary school level, teachers' guides and manuals for teacher training in Sri Lanka. She also mentioned that UNESCO had sponsored a project to create greater awareness through interaction of students from different ethnic groups. The observer for Switzerland added that the Committee on Conventions and Recommendations of UNESCO examined

allegations of human rights violations of individuals, including persons belonging to minorities, in the field of education, culture, science, communication and information.

79. The observer for the Office of the United Nations High Commissioner for Refugees mentioned that many programmes which UNHCR had established for refugees also implicitly benefited minorities as they were often disproportionately affected by population displacement and refugee flows. Of particular relevance were the programmes on human rights education, capacity-building of local human rights institutions to prevent further refugee flows and staff training in cultural sensitivity. Another area on which UNHCR was focusing was that of issues pertaining to statelessness and citizenship, especially within the context of State succession.

80. The observer for the National Minorities Council of India suggested that in reports such as the Human Development Report of UNDP, desegregated data on minorities should be included to reflect the development determinants of various minority communities as a means to report on their economic, social and educational development. This suggestion was supported by the observer for Cuba who stressed the importance of economic and social data being included in the Human Development Report of UNDP.

3. The role of non-governmental organizations

81. The information submitted to the Working Group during the period of its mandate, on the role of non-governmental organizations (NGOs) in promoting and protecting the rights of minorities has been very useful. Particular emphasis was placed on the advocacy role of NGOs in making better known the issues facing minority communities, the sharing of international experiences within the framework of a constructive dialogue and the implementation of international human rights standards. NGOs have contributed extensively to the debates of the Working Group by bringing to light situations involving minorities at national and local levels.

82. The observer for Minority Rights Group said that NGOs could play an important role in the training of minorities. The experience of Minority Rights Group in training members of minority groups in Bulgaria, Hungary, Poland, Slovakia and Romania, with the full participation of minorities and majorities in all stages of the training programme, had proved very positive. In addition, Minority Rights Group was training representatives of minority groups in international human rights procedures, including the Working Group. Such training provided effective participation at the Working Group and also established vital links between international, regional and local organizations.

III. EXAMINING POSSIBLE SOLUTIONS TO PROBLEMS INVOLVING MINORITIES, INCLUDING THE PROMOTION OF MUTUAL UNDERSTANDING BETWEEN AND AMONG MINORITIES AND GOVERNMENTS

The rights of minorities and the role of the media

83. During the discussions particular attention was paid to the positive role of the media as an instrument for the protection and promotion of the

rights of persons belonging to minorities, as well as to the negative role the media could play by exacerbating problems involving minorities and latent ethnic, religious or racial tensions.

84. Mr. Khalil, presenting his working paper on the rights of minorities and the role of the media (E/CN.4/Sub.2/AC.5/1997/WP.4), said that in reflecting upon the role of the media regarding minority rights, it was important to keep in mind the diversity of the socio-political environment in which they operated. In his paper, Mr. Khalil observed that the media might be subject to State control, and that in most countries human rights and minority rights were presented in the national media primarily as news items rather than issues meriting continuous concern. In many instances, national or regional human rights NGOs had limited influence and their activities, seminars and reports, which were often critical of the authorities, received little publicity in the national media. With reference to ethnic minority media, case studies had shown that, essentially, they prevented or at least delayed assimilation into the mainstream culture, contributed to the survival of a minority language and could be considered a significant ingredient of cultural survival. In his concluding remarks, Mr. Khalil mentioned that the protection of minority rights required a supportive attitude on the part of the majority and the national media could serve as a means of projecting multiculturalism as an enrichment of society.

85. Mr. Chaszar remarked that in many countries the media were playing a negative rather than a positive role. The media most often passed over in complete silence the problems of minorities, except when they made for sensational news. In other countries, the media were being manipulated to the detriment of minorities, at times inciting discrimination against minorities. The Chairman-Rapporteur added that the media could be an instrument both of conflict and reconciliation. Unfortunately, the media were all too often used to exacerbate conflict when tensions between minorities and between minorities and Governments escalate.

86. The observer for the National Minorities Council of India stated that, in India, the manipulation of the media often aggravated tensions between Muslims and Hindus. Negative stereotyping of one group or another often proved a tool for the Government to shape attitudes, values and norms. The representative of the Dalit Liberation Education Trust provided the example of the Dalits, who were portrayed as criminals in the media, thus exacerbating latent discriminatory attitudes towards Untouchables.

87. The Chairman-Rapporteur concluded the discussion on minority rights and the role of the media by highlighting articles 4 and 7 of the International Convention against All Forms of Racial Discrimination, which were also applicable to the media, and by suggesting that that topic could be the subject of a future seminar organized by the Working Group.

IV. RECOMMENDING FURTHER MEASURES, AS APPROPRIATE, FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF PERSONS BELONGING TO NATIONAL, OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

88. Many ideas and suggestions have been provided during the period of the mandate of the Working Group on further measures for the promotion and protection of the rights of persons belonging to minorities. These have ranged from ways of evaluating the effective promotion of the principles contained in the Declaration and the monitoring of different situations involving minorities to the training of minorities and their representation and participation at all levels of society.

89. At the current session, the Working Group had before it a working paper on encouraging and monitoring compliance with minority rights, prepared by Mr. Gudmundur Alfredsson (E/CN.4/Sub.2/AC.5/1997/WP.8). In his paper, Mr. Alfredsson suggested that better use should be made of international and bilateral technical cooperation programmes with a view to enhancing respect for minority rights at the domestic level; that the Working Group should show, using concrete examples, that dialogue and technical cooperation could be effective mechanisms for conflict prevention and resolution; that the Working Group might encourage research on topics of particular relevance to its mandate and ensure that the guidelines on State reporting addressed minority concerns. He also suggested that the members of the Working Group could provide their good offices in minority situations calling for urgent attention.

90. The observer for Switzerland proposed that the recommendations contained in the working paper prepared by Mr. de Varennes on the right to speak or not to speak (E/CN.4/Sub.2/AC.5/1997/WP.6) should be transmitted to the Committee on Human Rights with the request that guidelines on the rights of linguistic minorities elaborated on the basis of the material provided in that working paper and of information submitted to the Working Group. In accordance with such guidelines, the Committee on Human Rights could encourage States parties to elaborate on the effect they had given to the relevant provision of article 27 of the International Covenant on Civil and Political Rights, namely, the protection of persons belonging to linguistic minorities. A similar procedure could be undertaken in respect of the Committee on the Rights of the Child and the reporting obligations of States parties under article 29 of the Convention on the Rights of the Child.

91. The observer for Finland suggested that a survey should be undertaken to obtain information on the extent to which the Declaration had already been translated into, and published in, both majority and minority languages. Modes for the most effective dissemination of those translations should be devised. Furthermore, he suggested that the question of how to deal in a responsible way with matters concerning tensions and conflicts between groups should become an integral part of the training of journalists. The need for a code of moral/ethical conduct for the mass media when dealing with minority issues should be studied.

92. The observer for the International Centre for Ethnic Studies drew attention to the need for the Working Group to consider the rights of

minorities who found themselves in "exceptionally vulnerable, or dangerous circumstances". They included migrant workers whose cultural and other rights as minorities in their host State were not adequately protected, and internally displaced persons who tend to be drawn in disproportionately large numbers from minority communities and were ineligible for protection under humanitarian law relating to refugees.

IV. THE FUTURE ROLE OF THE WORKING GROUP

93. With regard to the future role of the Working Group, there was a clear consensus among its members, as well as the observers, that it should be the focal point of the United Nations in the field of minority protection. More specifically, the Working Group should act as the main forum for constructive dialogue on the treatment of minorities by Governments and on ways to improve relations between the parties concerned by finding methods of defusing tensions and preventing conflict. Many suggestions were made as to the thematic issues which the Working Group could focus on in the future and there was agreement that a specific theme could be identified for each session in order to focus attention on a particular subject and arrive at concrete recommendations.

94. The observer for Minority Rights Group suggested the following themes for further examination at subsequent sessions of the Working Group: the right of persons belonging to minorities to use their own language in private and in public, including existing national legislation and good practice; a deeper understanding of literacy and illiteracy with special regard to adult literacy of minorities; increasing focus on articles 5.1 and 5.2 of the Declaration through investigating ways and means of involving minorities in the planning and implementation of national policies, as well as programmes of cooperation and assistance among States. The observer for Romania considered that it was important to focus on one or two major topics at each session.

95. The observers for Romania, the Russian Federation and Switzerland and Minority Rights Group urged that the Working Group should be granted permanent status, as it provided an effective forum for dialogue between minorities, Governments, agencies and scholars.

V. OTHER MATTERS

A. The issue of citizenship

96. Mr. Ali Khan presented a working paper on some aspects of citizenship under international law (E/CN.4/Sub.2/AC.5/1997/WP.9). He mentioned that it was a corollary to his previous working paper on domicile and residence concerning minorities and migrant groups submitted to the Working Group at its second session (E/CN.4/Sub.2/AC.5/1996/WP.4). In his paper, he provided an overview of provisions in various international instruments which had a bearing on the concept of nationality and citizenship, all of which strengthened the concept that no one could be arbitrarily deprived of his or her nationality. He said that citizenship or nationality was the mother of all rights and to deprive a person of such a right resulted in deprivation of the totality of rights. It had therefore become necessary to call upon all States to desist from enacting citizenship legislation which might

discriminate against persons or a group of persons on grounds of race, religion or ethnic origin. He added that it was important to address the issue of statelessness, as that phenomenon was on the increase and disproportionally affected persons belonging to minorities. The current trend in international law was to strengthen the right to a nationality, an issue which the International Law Commission was in the process of codifying.

97. The Chairman-Rapporteur observed that, with the emergence of international human rights law, the situation had been somewhat modified. Citizenship was not a precondition for the enjoyment of all human rights, but only for some of them. The International Covenant on Civil and Political Rights, as well as the Convention on the Rights of the Child and several other instruments, required that human rights should be respected and ensured by the State concerned for every individual who was within its territory and subject to its jurisdiction. Those rights, therefore, had to be protected for aliens as well as citizens. There were, however, some important exceptions where rights could only be demanded by citizens, such as the political rights contained in article 21 of the Universal Declaration and in article 25 of the Covenant on Civil and Political Rights. The observer for the former Yugoslav Republic of Macedonia added that article 16 of the European Convention on Human Rights, relating to citizenship, together with article 14 on the principle of non-discrimination, provided widespread protection of persons belonging to minorities and an adequate guarantee of fundamental rights.

98. The observer for Estonia mentioned that her Government was increasingly taking cognizance of the international human rights standards addressing the right to a nationality and the issue of citizenship and would explore the matter systematically in cooperation with other European countries, as well as international and regional organizations, especially OSCE and its High Commissioner on National Minorities. As Estonian nationality law was based on the principle of jus sanguinis, a complete revision of Estonian legislation would be required to bring it into line with the principle of jus soli. The Chairman-Rapporteur noted that there was no general requirement, or expectation, in general to change from jus sanguinis to jus soli. Concern was limited to the situation of children who would otherwise be stateless. For them only, the principle of jus soli should be applied where citizenship law was based on jus sanguinis, in order fully to comply with the spirit of international instruments, and in particular with article 7.2 of the Convention on the Rights of the Child.

B. Definition of minorities

99. Mr. Chernichenko presented his second working paper on the definition of minorities (the first was submitted to the second session of the Working Group in document E/CN.4/Sub.2/AC.5/1996/WP.1) and highlighted a number of issues which he deemed particularly important. Mr. Chernichenko said that his working paper contained merely a working hypothesis which he did not expect the Working Group to adopt but which should serve as a guideline for the further elaboration of a working definition of minorities.

100. The observers for Switzerland and for the Russian Academy of Sciences raised a number of issues in respect of the working definition provided, in particular with regard to the categories of persons excluded from being

considered a minority, listed in article 6 of the definition annexed to the working paper, among them, indigenous peoples, groups of persons who manifestly had no will to preserve their identity, and those who were too few in number to warrant a special regime of protection. As indigenous peoples and minorities shared common characteristics, it was difficult categorically to separate them into distinct groups. In addition, how was the will of the minorities to preserve their identity to be determined and who was going to decide that a minority was too few in number to warrant special protection?

101. In the opinion of the Chairman-Rapporteur, there was no need to arrive at a definition of minorities to ensure adequate protection of their rights as provided for in the Declaration of 1992 and contained in other international human rights instruments. A pragmatic approach would avoid the risks arising from a rigid legal definition. With respect to the reference to the exclusion of "groups of persons who manifestly have no will to preserve their identity" contained in article 6 of the definition annexed to the working paper, he emphasized that the presence or absence of will was closely linked to the policy of the State in relation to minorities. In countries with strong assimilationist policies, for example, the will of the minority to preserve its identity would obviously be less evident than in countries where minorities were granted a space to manifest their characteristics.

102. The Chairman-Rapporteur added that the categories listed in article 6 were unacceptable within the framework of a working definition and provided valid reasons for not adopting a definition. Indigenous peoples and minorities should be able to identify themselves as being a member of one group or the other. In fact, indigenous peoples themselves were invoking article 27 of the International Covenant on Civil and Political Rights as it contained one of the only legally binding rights which was relevant to their situation. With reference to the exclusion of minorities who were too few in number to warrant being considered as such, a regime for minority protection should apply to all groups according to their needs rather than according to the number of members which made up the group.

103. Mr. Ali Khan congratulated Mr. Chernichenko on his attempt to arrive at a working definition and reiterated the usefulness of determining the characteristics common to persons belonging to minorities. He queried, however, the need to include the criterion of citizenship, as he felt that it was sufficient for a minority to be resident in a given territory to be able to benefit from the protection afforded to minorities.

104. Mr. Chernichenko reiterated that, rather than a strict legal definition, he had attempted to provide a working definition which would help in identifying the groups which were to benefit from the protection of minority-related rights contained in international human rights instruments. With reference to the exclusion of indigenous peoples provided for in article 6, Mr. Chernichenko recalled article 8 of the definition annexed to his working paper, which covered situations in which indigenous peoples could in certain circumstances be considered as minorities.

V. CONCLUSIONS AND RECOMMENDATIONS

105. The Working Group expressed its deep appreciation to the government observers, and observers from intergovernmental and non-governmental organizations, including representatives of minority groups, and scholars, many of whom had travelled to attend the session at great cost, for providing information about important developments concerning situations involving minorities in their countries.

106. The first three sessions of the initial mandate of the Working Group contributed significantly to accurate knowledge about minorities and the clarification of some issues of concern through public debate. There were numerous instances of constructive dialogue between all participating actors, including intergovernmental bodies, Governments and minorities. The contribution of the members of the Working Group, as well as of observers, including scholars, through oral presentations and working papers greatly contributed to a better understanding of some of the principles contained in the Declaration, in particular the right of persons belonging to minorities to speak their own language, to learn and be taught in their mother tongue, to profess and practise their own religion and to enjoy their own culture, as well as of more thematic issues, such as education rights and minorities, intercultural education, domicile, residence and citizenship, and the definition of minorities. The issue of effective participation was brought to the attention of the Working Group, in particular the various modalities by which persons belonging to minorities may participate at local, national, regional and international levels. Many valuable suggestions were made with reference to possible solutions to problems involving minorities and information was provided on measures and practices undertaken by States and members of civil society to promote and protect the rights of persons belonging to minorities and to integrate all groups within multicultural societies.

107. The recommendations adopted at the current session were drawn together by the Chairman-Rapporteur on the basis of the suggestions and ideas submitted during the period of the mandate of the Working Group.

1. Promotion and practical realization of the Declaration

108. The Working Group decided to recommend to the Sub-Commission that a manual be prepared in, inter alia, minority languages, that would include: (a) the text of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; (b) an explanatory note setting out and interpreting the principles contained in the Declaration; (c) procedures and mechanisms by which members of minorities can address regional and international organizations with their concerns.

109. The Working Group decided to recommend to the Sub-Commission that a database be established containing systematic information on good practices, organized according to the principles contained in the Declaration; and that another database be established on national, regional and international recourse mechanisms, including national commissions, community mediation and other forms of peaceful settlement of disputes. The information should be

sought from Governments, United Nations organs and bodies, regional organizations, non-governmental organizations and individual experts, and should be made available on the Internet.

110. The Working Group welcomed the activities undertaken in the framework of the United Nations Decade for Human Rights Education, launched in 1995, and decided to recommend to the Sub-Commission that minority rights issues and programmes for intercultural education be made a core component of the action plans for the Decade.

111. The Working Group, in the light of comments made by its members and observers on the issue of education rights for minorities, decided to recommend that the Sub-Commission, with the approval of the Commission, transmit the "Hague recommendations regarding the education rights of national minorities" contained in the annex to working paper E/CN.4/Sub.2/AC.5/1997/WP.3 to Governments, intergovernmental organizations and non-governmental organizations, including representatives of minority groups, for their comments, and request the Chairman-Rapporteur to prepare for submission to the Working Group at its fifth session, taking into account the comments received, an analytical review of the "Hague recommendations" with a view to their being made universally applicable.

112. The Working Group heard with interest and took note of the comments and suggestions made in relation to the activities of the United Nations treaty bodies. The Working Group decided to recommend that, the Sub-Commission request the respective Committees to include in their reporting guidelines for States parties a request for information concerning the minority-related rights relevant to the treaty in question, and to pay particular attention to the question of the status of minorities during their consideration of State party reports. In relation to the activities of the various Committees, the Working Group recommended: that the Committee on the Elimination of Racial Discrimination should discuss, inter alia, the matter of allocation of citizenship and its consequences with respect to indirect discrimination on grounds of race, colour, descent or ethnic or national origin; the Committee on Human Rights pursue its analysis of article 27 of the International Covenant on Civil and Political Rights; that the Committee on Economic, Social and Cultural Rights, in its dialogue with reporting States, should focus on articles 11, 12, 13, and 15 of the International Covenant on Economic, Social and Cultural Rights; that the Committee on the Rights of the Child should pay particular attention to articles 12, 29, and 30 of the Convention on the Rights of the Child; and that the Committee on the Elimination of Discrimination against Women should, in its dialogue with Governments, explore the relative situations of women belonging to minorities and those belonging to majorities, and make suggestions as to ways in which inequalities can be addressed.

113. In addition, the Working Group decided to recommend that the Sub-Commission encourage the United Nations treaty bodies, in particular the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child, and the Committee on Economic, Social and Cultural Rights, to ensure that their questions to States parties included requests for concrete data on the States' policies on multicultural and intercultural

education aimed at promoting the harmonious coexistence of minorities and that their recommendations or concluding observations address issues of multicultural and intercultural education.

2. Possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments

114. In the light of the information provided at its sessions, the Working Group noted that when minorities in one country belonged to the same ethnic, religious or linguistic group as the population in a neighbouring country, bilateral relations were sometimes affected by group tensions. While States should at all times abstain from any form of intervention in the internal affairs of other States, they should where possible engage in constructive cooperation to facilitate reciprocal protection and promotion of minority rights. The Working Group decided to recommend that the Sub-Commission urge that wider use be made of bilateral treaties. Such treaties should reflect relevant universal and regional human rights instruments and include provisions for the settlement of disputes over their implementation.

115. The Working Group heard with interest the comments made concerning regional mechanisms for the promotion and protection of the rights of minorities, especially those developed in Europe to provide early and peaceful settlement of disputes involving minorities. The Working Group decided to undertake an analysis of the European standards and mechanisms for the protection of minorities and to evaluate their practical implementation. In addition, the Working Group decided to recommend that the Sub-Commission encourage study of the possibility of establishing regional mechanisms in other regions, adapted to the situation in each region.

116. The Working Group noted the link between respect for minority rights and the maintenance of peace, both nationally and internationally. In that regard, it decided to recommend that the Sub-Commission request the High Commissioner for Human Rights to develop and implement procedures for conflict prevention in which members of minorities as well as of majorities would participate in dialogue from the earliest possible moment, and ensure that minorities as well as majorities are included in peacekeeping and post-conflict peace-building.

117. The Working Group observed that international and bilateral technical cooperation contributes significantly to the realization of minority rights. Advice can be provided in the drafting of constitutions and legislation, on the review of legislation in the light of international standards, the improvement of the institutions, procedures and functioning of law enforcement agencies and the judiciary in their relations with minorities, and in the planning and conduct of human rights education, including education on minority rights issues. In that regard, the Working Group decided to recommend that the Sub-Commission request the High Commissioner for Human Rights, and United Nations organs and bodies, as well as development agencies, to include such technical cooperation in their activities, based on consultation with the minorities concerned.

3. Further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities

118. The Working Group, in the light of the seminar on multicultural and intercultural education and the suggestions (see paras. 58-62 above) made during its sessions, decided to recommend that the Sub-Commission request the Secretary-General to invite Governments, intergovernmental organizations, non-governmental organizations and scholars to provide information on positive measures taken to promote both inter-group relations and intercultural education aimed at the acceptance of mutual diversity and social harmony within States, including: (a) examples of good practices; (b) information on community-based multicultural schools where pupils are learning their mother tongue and one another's languages and sharing their knowledge and cultures; (c) measures taken to ensure that school curricula, for all types of school and at all levels, learning materials and textbooks are relevant to all children and avoid focusing exclusively on the dominant or majority group; (d) information on the development of national and international cooperative multicultural and intercultural education projects; (e) measures taken to eradicate elements in educational material that give rise to prejudiced perceptions of minorities and their negative stereotyping so that benefit may be drawn from relevant experiences; (f) ways in which minorities are involved in the preparation of projects.

119. The Working Group underlined the need for the United Nations, in particular, UNICEF, UNESCO and the United Nations Development Programme (UNDP), to increase greatly the resources targeted to multicultural and intercultural educational projects in particular concerning: (a) curricular development; (b) developing and publishing suitable teaching material; (c) awareness-raising of multicultural and intercultural norms amongst those responsible for national educational policy; (d) models for the provision of initial and continuing education of teachers in this regard, especially wherever there is a clear shortage of local resources, in order to facilitate the practical implementation of articles 4.3 and 4.4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. To this end, the Working Group decided to invite these organizations to attend its annual sessions, to report on relevant projects and to ensure that such projects are implemented, where possible, with the participation of minority representatives.

120. The Working Group decided to entrust one of its members with the task of analysing the information and material received from Governments, intergovernmental and non-governmental organizations and scholars on practical measures in the fields of multicultural and intercultural education, and of reporting to each session on the basis of the information received.

121. The Working Group decided, in the light of the comments made on the issue of citizenship and nationality, to recommend that the Sub-Commission, in accordance with Commission on Human Rights resolution 1997/36 on human rights and arbitrary deprivation of nationality, consider the right to citizenship in the context of minority rights, taking into account the information submitted to the Working Group.

122. The Working Group noted that the presence, role and contribution of women were significant components of any minority community, and decided to pay particular attention, in the exercise of its mandate, to ensuring that: the human rights of minority women are promoted and safeguarded by States and minority groups; the status of minority women is not compromised by communal values, social roles or legal systems premised on sex discrimination; and a forum continues to be provided for minority women to present their experiences regarding the protection, promotion or compromise of their rights both as women and as members of a minority group.

123. In the light of the fact that the Commission on Human Rights has appointed special rapporteurs and established working groups to examine and evaluate State performance on a number of thematic issues (religious intolerance, racism, torture, enforced disappearances, summary executions and arbitrary detention), the Working Group decided to recommend that the Sub-Commission request the Commission to give standing instructions to these special procedures to ensure that due regard is paid to respect for the rights of persons belonging to minorities.

124. The Working Group expressed its appreciation for the comments and suggestions made concerning its future role and decided that its future sessions would be devoted to one or more major themes. The following themes were recommended: migration and displacement, in particular, the relationship between the protection of the rights of minorities and population displacement, migration and refugee flows, taking into account the establishment by the Commission on Human Rights of the Working Group on Migrants; the role of the media - particularly the way in which the media contribute to the shaping of public attitudes, give attention to the contribution of minority groups to national life and project the culture not only of the majority but also of the minority as an enrichment of society. The Working Group decided to recommend that regular seminars and discussion groups be held for national media representatives.

125. The Working Group decided to develop and apply methods to carry out research into particular situations, including visiting countries when appropriate, and if invited to do so.

Annex I

LIST OF DOCUMENTS BEFORE THE WORKING GROUP ON MINORITIES ON ITS THIRD SESSION

Symbol	Title
E/CN.4/Sub.2/AC.5/1997/1	Provisional agenda
E/CN.4/Sub.2/AC.5/1997/1/Add.1	Annotations to the provisional agenda
E/CN.4/Sub.2/1996/2	Report of the Working Group on its first session
E/CN.4/Sub.2/1996/28	Report of the Working Group at its second session
E/CN.4/Sub.2/AC.5/1997/WP.1	Working paper on the definition of minorities, prepared by Mr. Chernichenko
E/CN.4/Sub.2/AC.5/1997/WP.3	Working paper on education rights and minorities: the Hague Recommendations, prepared by Mr. Guillaume Siemienski
E/CN.4/Sub.2/AC.5/1997/WP.4	Working paper on the rights of minorities and the role of the media, prepared by Mr. Khalil
E/CN.4/Sub.2/AC.5/1997/WP.5	Report of the seminar on multicultural and intercultural education
E/CN.4/Sub.2/AC.5/1997/WP.6	Working paper on the rights of linguistic minorities, "To speak or not to speak", prepared by Mr. Fernand de Varennes
E/CN.4/Sub.2/AC.5/1997/WP.7	Working paper on the right of persons belonging to minorities to enjoy their own culture, by Ms. Schulte-Tenckhoff
E/CN.4/Sub.2/AC.5/1997/WP.8	Working paper on the implementation of the rights of persons belonging to minorities, prepared by Mr. Gudmundur Alfredsson
E/CN.4/Sub.2/AC.5/1997/WP.9	Working paper on some aspects of citizenship under international law, prepared by Mr. Ali Khan
E/CN.4/Sub.2/AC.5/1997/CRP.1	Conference room paper on the treatment of religious minorities in educational systems throughout the world, prepared by Mr. Roman Kroke

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